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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,455	10/21/2005	Michele Rubertelli	40306/GM/lp	4066
7590 Modiano & Associati Via Meravigli 16 20123 Milano Italy, ITALY		06/08/2007	EXAMINER LIPMAN, JACOB	
			ART UNIT 2134	PAPER NUMBER
			MAIL DATE 06/08/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/533,455

Applicant(s)

RUBERTELLI ET AL.

Examiner

Jacob Lipman

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
- 4a) Of the above claim(s) 46-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/2/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 26-45 in the reply filed on 4 April 2007 is acknowledged.

***Information Disclosure Statement***

2. The examiner has considered the information disclosure statement (IDS) submitted on 2 May 2005.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 26-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 26 recites the limitation of establishing a correlation between a first item to be correlated and a second item that that is correlated to the first. It is unclear what the "establishing a correlation" is doing since the items are claimed as already being correlated to one and other, as it recites that the second is correlated to said first item.

6. Claim 34 recites the limitation "at least one processor-equipped device". It is unclear if this is referring the device of claim 33, or a second device.

7. Claim 34 recites the limitation "said means". It is unclear which of the numerous means in the preceding claims this refers to.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 26-45, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Holowko et al., USPN 6,039,251.

With regard to claim 26, Holowko discloses a positive identification device (secure remote control system 10, column 4 lines 53-56) particularly for establishing correctly a correlation between a hospital product (column 5 lines 26-35) or patient to be correlated and at least one hospital product or patient that is correlated to said hospital product or patient to be correlated (column 3 lines 5-8) including a first memory means, which can be affixed to said hospital product or patient to be correlated and store a predefined unique identification code for said hospital product or patient to be correlated (column 8 line 63-column 9 line 2, a second memory means, which can be affixed respectively to said at least one hospital product or patient (column 6 lines 25-28) that is correlated to said hospital product or patient to be correlated (column 6 lines 30-33) and means for remote transfer of data, adapted to download by remote transmission the content of said first memory means into said second memory means (column 6 lines 37-40 and 59-67, column 9 lines 3-5).

With regard to claim 27, Holowko discloses comparing the numbers to verify correlation (column 9 lines 5-8).

With regard to claim 28, Holowko discloses reading the second memory into the first (column 6 lines 16-23).

With regard to claims 29 and 30, Holowko discloses the first memory stores additional data (column 11 lines 2-7).

With regard to claim 31, Holowko discloses using radio frequency to transmit the data (column 5 lines 50-56).

With regard to claims 32 and 45, Holowko discloses an identification transponder (provider computer) identifying the product to be correlated (column 10 lines 50-59).

With regard to claim 33, Holowko discloses a processor-equipped device (provider computer) housing the transponder and programming means (column 10 lines 50-59).

With regard to claim 34, Holowko discloses that the provider computer can signal a match between the first and second memory (column 10 lines 50-52).

With regard to claim 35, Holowko discloses the provider computer has data entry means (column 10 lines 53-55).

With regard to claim 38, Holowko discloses the provider computer has display means (column 10 lines 53-55).

With regard to claim 39, Holowko discloses the provider computer can interface with other computers (column 10 lines 39-42).

With regard to claim 41, Holowko discloses the transponder is supported by a card (column 1 lines 5-10).

With regard to claims 42 and 44, Holowko discloses the transponder is affixed to a container (pump, column 4 lines 31-34).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holowko.

With regard to claims 36 and 37, Holowko discloses the device according to claim 33, as outlined above, but does not mention the provider computer having a keyboard or printer. The examiner takes official notice that it is well known in the art that to include a keyboard and printer in a computer. It would have been obvious for one of ordinary skill in the art to include a keyboard and printer in the provider computer of Holowko for the motivation of making editing and record keeping (column 10 lines 53-55) more efficient.

With regard to claim 40, Holowko discloses the device according to claim 26, as outlined above, but does not mention encryption. The examiner takes official notice that it is well known in the art to encrypt identification data that is verified. It would have been obvious for one of ordinary skill in the art to encrypt and decrypt the identification numbers of Holowko to prevent unauthorized use of the pump, a stated motivation of Holowko (column 7 lines 7-10).

With regard to claim 43, Holowko discloses the device of claim 42, as outlined above, but does not mention that the transponder is affixed to a label. Holowko does disclose that the id number is on the pump (column 8 line 63-column 9 line 2), and that the transponder is RF (column 5 lines 50-56), but does not mention that the ID is an RF transponder on the pump's product label. The examiner takes official notice that it is well known in the art to put RF antennas on product labels to broadcast their ID number. It would have been obvious for Holowko to put the ID number of the pump in an RF transmitter on the pump label for the motivation of having one item (the label) identify the device both to the patient and to the RF receiver.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3837. The examiner can normally be reached on M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571-272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

A handwritten signature in black ink, appearing to be "Jm" followed by a stylized surname.